

State of Nebraska - INVITATION TO BID

CONTRACT

Return to:
State Purchasing Bureau
301 Centennial Mall South, First Floor
Lincoln, Nebraska 68508
OR
P.O. Box 94847
Lincoln, NE 68509-4847
Telephone: 402-471-2401
Fax: 402-471-2089

Date	10/10/12	Page	1 of 4
Solicitation Number	4102 OF Rebid		
Opening Date and Time	10/25/12	2:00 pm	
Buyer	MARY LANNING (AS)		

DESTINATION OF GOODS
CORRECTIONS - CENTRAL OFFICE
BUILDING 1
FOLSOM & W PROSPECTOR PL
LINCOLN NE 68522

Contract to supply and deliver Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress to the State of Nebraska as per the attached specifications for a two (2) year period from date of award. The contract may be renewed for three (3) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the vendor and the State of Nebraska.

The State may request that payment be made electronically instead of by state warrant. ACH/EFT Enrollment Form can be found at: <http://www.das.state.ne.us/accounting/forms/achenrol.pdf>

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system mean the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Responsibility Act of 1996, 8 U.S.C. 1324a, known as E-Verify Program, or an equivalent federal program designed by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

The contractor, by signature to this Invitation to Bid, certifies that the contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The contractor also agrees to include the above requirements in any and all subcontracts into which it enters. The contractor shall immediately notify the Department if, during the term of this contract, contractor becomes debarred. The Department may immediately terminate this contract by providing contractor written notice if contractor becomes debarred during the term of this contract.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at: www.das.state.ne.us.
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation require to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

The parties hereby agree that the following documents are incorporated into the contract resulting from this Invitation to Bid:

1. The signed Invitation to Bid Contract document;
2. The original ITB document;

No Bid Respond: () Remove From Class-Item OR () Keep Active For Class-Item

BIDDER MUST COMPLETE THE FOLLOWING

DISCOUNT PAYMENT TERMS: _____% _____ DAYS

By signing this Invitation to Bid, the bidder agrees to the "Standard Conditions and Terms of Bid Solicitation and Offer" and is committed to provide a drug free work place environment. Vendor will furnish the items requested within _____ days after receipt of order. Failure to enter Delivery Date may cause quotation to be REJECTED.

Sign

Here (Authorized Signature MANDATORY - MUST BE SIGNED IN INK)

VENDOR#

VENDOR:

Address:

Enter Contact Information Below

Contact

Telephone

Facsimile

Email

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3. Any Addenda and or Amendments to include Questions and Answers;
4. Warranty documents supplied with the bid;
5. The contract award.

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number 1 receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) the contract award, 2) ITB addenda or amendments, to include Questions and Answers, with the latest dated amendment having the highest priority, 3) the original ITB, 4) the signed ITB Contract document, 5) warranty documents supplied with the bid.

Any remaining uncertainty or ambiguity shall not be interpreted against either party because such party prepared any portion of the Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

It is understood by the parties that in the State of Nebraska's opinion, any limitation on the contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3 and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the contractor's bid.

(10/10/12 djg)

A response to this Solicitation is subject to, but not limited to, the included Standard Conditions and Terms. PLEASE READ CAREFULLY!

IT IS THE RESPONSIBILITY OF THE BIDDER TO REFER TO STATE PURCHASING BUREAU'S WEB SITE FOR ALL INFORMATION RELEVANT TO THIS SOLICITATION TO INCLUDE ADDENDA AND/OR AMENDMENTS THAT MAY BE ISSUED PRIOR TO THE OPENING DATE.

<http://www.das.state.ne.us/materiel/purchasing/purchasing.html>

Bid Tabulations are available on the internet at <http://www.das.state.ne.us/materiel/purchasing/bidtabs.htm>

This form is part of the specification package and must be signed and returned, along with all documents, by the opening date and time specified.

Any questions regarding this solicitation must be directed to State Purchasing Bureau, to the attention of the buyer. It is preferred that questions be sent via e-mail to matpurch.dasmat@nebraska.gov. Questions may also be sent by facsimile to 402-471-2089. Refer to specification for additional information.

No facsimile or email solicitation responses will be accepted.

INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	PEGASYS, 180 MCG/ML, 1 ML	672.0000	UN	_____	_____
2	VICTRELIS, 200 MG, 28X12 EA	72.0000	UN	_____	_____
3	INVEGA SUSTENNA 234 MG/1.5 ML, 1.5 ML	168.0000	UN	_____	_____

State of Nebraska - INVITATION TO BID CONTRACT

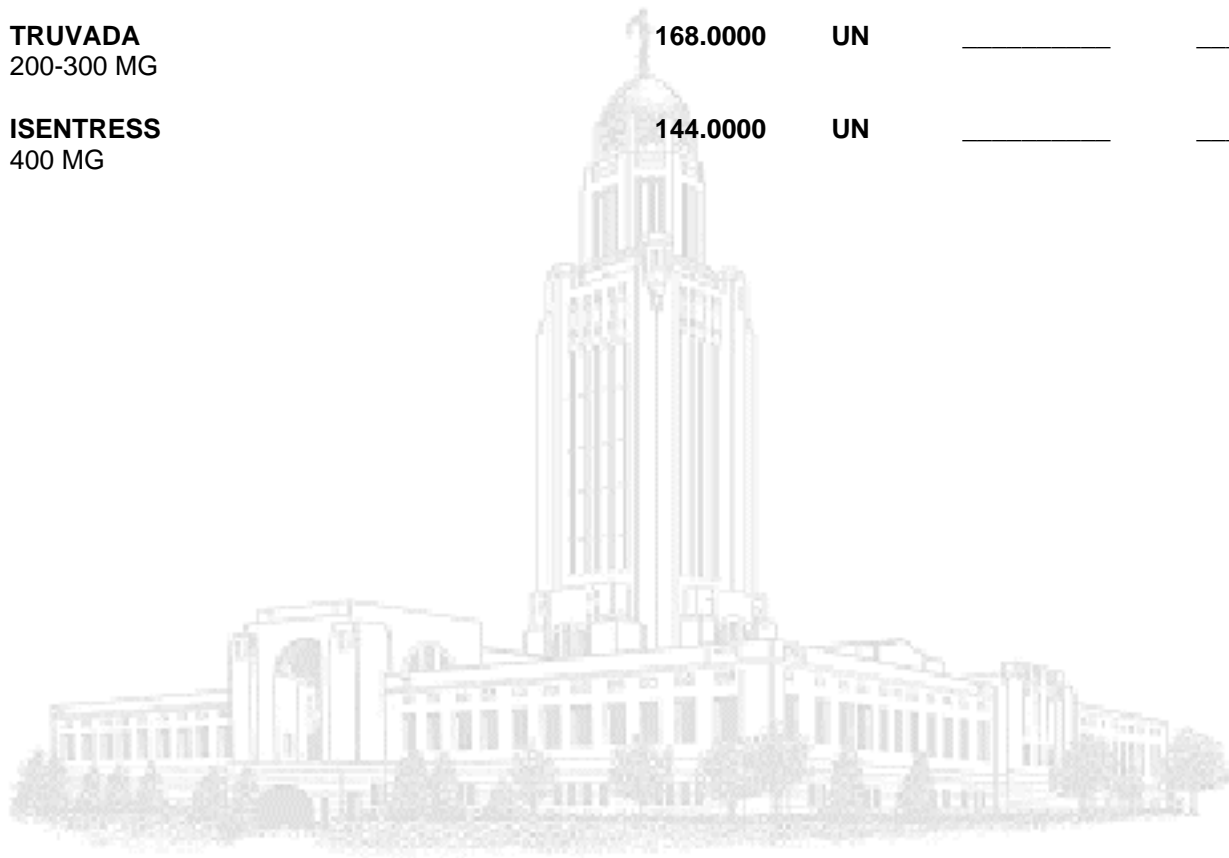
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INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
4	ATRIPLA 200-300-600 MG	120.0000	UN		
5	TRUVADA 200-300 MG	168.0000	UN		
6	ISENTRESS 400 MG	144.0000	UN		



STANDARD CONDITIONS AND TERMS OF BID SOLICITATION AND OFFER Invitations to Bid and Contract Awards

It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address: <http://www.das.state.ne.us/materiel/purchasing/purchasing.htm>

SCOPE- These standard conditions and terms of bid solicitation and acceptance apply in like force to this inquiry and to any subsequent contract resulting therefrom.

PRICES- Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the Invitation to Bid. No additional charges will be allowed for packing, packages or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

EXECUTION- Bids must be signed in ink by the bidder on the State of Nebraska's Invitation to Bid form. All bids must be typewritten or in ink on the State of Nebraska's Invitation to Bid form. Erasures and alterations must be initialed by the bidder in ink. No telephone or voice bids will be accepted. Failure to comply with these provisions may result in the rejection of the bid.

FACSIMILE DOCUMENTS- The State Purchasing Bureau will only accept facsimile responses to Invitations to Bid on bids under \$25,000 and up to ten (10) pages. However, two party sealed bids containing facsimile pages are acceptable. No direct facsimile solicitation responses will be accepted for a commodity contract.

VALID BID TIME- Bids shall be firm for a minimum of sixty (60) calendar days after the opening date, unless otherwise stipulated by either party in the Invitation to Bid.

DISCOUNTS- Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the bid. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

PAYMENT- Payment will be made by the responsible agency in conjunction with the State of Nebraska Prompt Payment Act 81-2401 through 2408. The State may request that payment be made electronically instead of by state warrant.

COLLUSIVE BIDDING- The bidder guarantees that the prices quoted have been arrived at without collusion with other eligible bidders and without effort to preclude the State of Nebraska from obtaining the lowest possible competitive price.

LUMP SUM OR ALL OR NONE BIDS- The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Bidders may submit a bid on an "all or none" or "lump sum" basis but should also submit a bid on an item-by-item basis. The term "all or none" means a conditional bid which requires the purchase of all items on which bids are offered and bidder declines to accept award on individual items; a "lump sum" bid is one in which the bidder offers a lower price than the sum of the individual bids if all items are purchased but agrees to deliver individual items at the prices quoted.

SPECIFICATIONS- Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The State Purchasing Director will be the sole judge of equivalency. The bidder may offer any brand which meets or exceeds the specification. When a specific product is required, the Invitation to Bid will so state. Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

ALTERNATE/EQUIVALENT BIDS- Bidder may offer bids which are at variance from the express specifications of the Invitation to Bid. The State reserves the right to consider and accept such bids if, in the judgement of the State Purchasing Director, the bid will result in goods and/or services equivalent to or better than those which would be supplied in the original bid specifications. Bidders must indicate on the Invitation to Bid the manufacturer's name, number and shall submit with their bid, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

SAMPLES- When requested, samples shall be furnished at the bidders expense prior to the opening of the bid, unless otherwise specified. Each sample must be labeled clearly and identify the bidders name, the Invitation to Bid number and the item number. Samples submitted must be representative of the commodities or equipment which would be delivered if awarded the bid. The State of Nebraska reserves the right to request samples even though this may not have been set forth in the Invitation to Bid. Samples not destroyed in testing will be returned at bidders expense, if requested, or will be donated to a public institution.

RECYCLING- Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per State Statute Section 81-15,159.

LATE BIDS- All bids will be time and date stamped upon receipt by the State Purchasing Bureau, and this shall be the official time and date of receipt. Bids received after the time of the bid opening will be considered late bids and will be returned to the bidder unopened. The State Purchasing Bureau is not responsible for late bids or lost requests due to mail service inadequacies, traffic or other similar reasons.

BID OPENING- Openings shall be public on the date and time specified on the Invitation to Bid form. It is the bidder's responsibility to assure the bid is delivered at the designated date, time and place of the bid opening. Telephone bids are not acceptable. A bid may not be altered after opening of the bids.

NO BID- If not submitting a bid, respond by returning the Invitation to Bid form explaining the reason in the space provided. Failure to respond to an Invitation to Bid may be cause for the removal of the bidder's name from the mailing list. NOTE: To qualify as a respondent, bidder must submit a "NO BID" and it must be received no later than the stated bid opening date and time.

AWARD- All purchases, leases, or contracts which are based on competitive bids will be awarded to the lowest responsible bidder, determined according to the provisions of State Statute Section 81-161, R.R.S. 1943. The State reserves the right to reject any or all bids, wholly or in part and to waive any deviations or errors that are not material, do not invalidate the legitimacy of the bid and do not improve the bidders competitive position. All awards will be made in a manner deemed in the best interest of the State.

BID TABULATIONS- Tabulations will be furnished upon written request. A self-addressed, stamped envelope which must include the agency and solicitation number must be enclosed. Bid tabulations will not be provided by telephone or facsimile. Bid files may be examined during normal working hours by appointment. Bid tabulations are available on the website at: <http://www.das.state.ne.us/materiel/purchasing/bidtabs.htm>

PERFORMANCE AND DEFAULT- The State reserves the right to require a performance bond from the successful bidder, as provided by law, without expense to the State. Otherwise, in case of default of the contractor, the State may procure the articles from other sources and hold the contractor responsible for any excess cost occasioned thereby.

IN-STATE PREFERENCE- A resident bidder shall be allowed a preference against a nonresident from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidders. Where the lowest responsible bid from a resident bidder is equal in all respects to one from a nonresident bidder from a state which has no preference law, the resident bidder shall be awarded the contract.

NONDISCRIMINATION- The Nebraska Fair Employment Practice Act prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, to be employed in the performance of such contracts, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin. (State Statute Sections 48-1101 through 48-1125) The bidder guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Invitation to Bid.

TAXES- Purchases made by the State of Nebraska are exempt from the payment of Federal Excise Taxes, and exemption certificates will be furnished on request. State and local taxes are exempt by State Statute Section 77-2704 (l) (m) R.R.S. 1943 and must not be included in the bid prices. Exemption by statute precludes the furnishing of State exemption certificates.

DRUG POLICY - Bidder certifies that it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

GRIEVANCE AND PROTEST- Grievance and protest procedure is available by contacting the buyer. Protest must be filed within ten (10) days of award.

NE ACCESS TECHNOLOGY STANDARDS- Vendor agrees to ensure compliance with Nebraska Access Technology Standards. See website at: <http://www.nitc.state.ne.us/standards/accessibility/>

**STATE OF NEBRASKA
STATE PURCHASING BUREAU**

SCHEDULE OF EVENTS

The State expects to adhere to the tentative procurement schedule shown below. It should be noted, however, that some dates are approximate and subject to change.

ACTIVITY		DATE/TIME
1	Release Invitation to Bid	October 10, 2012
2	Last Day to Submit Written Questions	October 17, 2012
3	State Responds to Written Questions Through an Addendum to be posted to the internet at: http://www.das.state.ne.us/materiel/purchasing/rfp.htm	October 19, 2012
4	Bid Opening Location: Nebraska State Office Building State Purchasing Bureau 301 Centennial Mall South, Mall Level Lincoln, NE 68508	October 25, 2012 2:00 p.m. Central Time

WRITTEN QUESTIONS AND ANSWERS

Any explanation desired by a bidder regarding the meaning or interpretation of any Invitation to Bid provision must be submitted in writing to the State Purchasing Bureau and clearly marked "ITB Number 4102 OF Rebid; Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress". It is preferred that questions be sent via e-mail to matpurch.dasmat@nebraska.gov. Questions may also be sent by facsimile to 402-471-2089, but must include a cover sheet clearly indicating that the transmission is to the attention of Mary Lanning, showing the total number of pages transmitted, and clearly marked "ITB Number 4102 OF Rebid; Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress".

Written answers will be provided through an addendum to be posted on the internet at <http://www.das.state.ne.us/materiel/purchasing/rfp.htm> on or before the date shown in the Schedule of Events.

TERMS AND CONDITIONS
Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress
4102 OF Rebid

SCOPE

The State of Nebraska intends to enter into a Contract for **Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress** for the State of Nebraska, Department of Correctional Services (NDCS).

TERMS OF CONTRACT

The contract to supply and deliver **Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress** will be for a two (2) year period from the date of contract award. The contract may be renewed for three (3) one (1) year periods. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the contractor and the State of Nebraska.

CANCELLATION

The contract may be terminated at any time upon the mutual consent of the parties, or by either party, with or without cause, upon 30 days notice to the other party.

NON COMPLIANCE STATEMENT

Read this specification carefully. Any and all exceptions to this specification must be written on or attached to the Invitation to Bid. Non-compliance can void your quotation.

It is the responsibility of bidder to obtain information and clarifications as provided below. The State of Nebraska is not responsible for any erroneous or incomplete understandings or wrongful interpretations of this Invitation to Bid by any bidder.

The State of Nebraska reserves the right to reject any and all bids, wholly, or in part, to waive any technicalities, informalities, or irregularities in any bid, and award in a manner deemed in the best interest of the State, unless otherwise specified by the bidder on the bid.

No interpretation related to the meaning of bid specifications or other pre-bid documents will be made orally to any Bidder by the State of Nebraska. Any request for bid interpretation must be put in writing and faxed by the Bidder to: the State Purchasing Bureau, Fax (402) 471-2089 or e-mailed to matpurch.dasmat@nebraska.gov by the last day to submit written questions that is specified in the "Schedule of Events" with this Invitation to Bid. (Inquiries received after the last day to submit written questions per the "Schedule of Events" may not be addressed).

EXCEPTIONS

The State Reserves the right to buy outside the contract those quantities or various types of items which may be needed to meet emergency requirements

ANNUAL USAGE

Two (2) year contract usage figures provided are estimates and are not to be construed as either a minimum or maximum purchase quantity. The orders shall be for the actual quantities of each item

ordered by or for any agency during the life of the contract. Contractor shall not impose minimum order requirements.

CONTRACT USING FACILITY

The NDCS Pharmacy will be utilizing this contract on an ongoing basis.

BID PRICE

Prices quoted for **Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress** shall be the unit price for each item which shall be F.O.B. destination and include all associated costs on orders which meet minimum order specification.

PRICE

Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, FOB Destination to the ordering state facility. Any request for increase must be submitted in writing to the State Purchasing Bureau a minimum of thirty (30) days prior to proposed effective date of increase and be accompanied by any/all supporting documentation such as a notification letter from the manufacturer indicating the percentage of increase. The supporting information must clearly establish the increase is for all customers, not to the State of Nebraska alone. Further documentation may be required by the State, to authenticate the increase (such as manufacturer invoices). Failure to supply any requested supporting documentation may be grounds to cancel the contract. No price increases are to be billed to any State Agencies without **prior** written approval by the State Purchasing Bureau. The discount for the items shall remain firm for the duration of the contract period.

The State of Nebraska will have a minimum of fifteen (15) days to accept or reject any request for price change. **NO** price increases are to be billed to the State Department of Corrections without prior written approval by the State Purchasing Bureau.

The State further reserves the right to reject any proposed price increase(s), cancel the contract and re-bid if determined in the best interest of the State.

It is understood and agreed that in the event of a reduction in the manufacturer's published standard price list for all or any portion of the proposed items, the State of Nebraska will be given full benefit of such decline in price immediately, including any promotional allowances offered to the balance of the trade during the contract period.

AMENDMENT

This contract may be amended at any time in writing upon the agreement of both parties.

BREACH OF CONTRACT

The State may terminate the contract, in whole or in part, if the contractor fails to perform its obligations under the contract in a timely and proper manner. The State may, by providing a written notice of default to the contractor, allow the contractor to cure a failure or breach of contract within a period of thirty (30) days (or longer at State's discretion considering the gravity and nature of the default). Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the contractor time to cure a failure or breach of contract does not waive the State's right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the contractor, the State may contract the service from other sources and hold the contractor responsible for any excess cost occasioned thereby.

FORCE MAJEURE

Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under the contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of the contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The State may grant relief from performance of the contract if the contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest upon the contractor. To obtain release based on a Force Majeure Event, the contractor shall file a written request for such relief with the State Purchasing Bureau. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the contract.

AWARD OF CONTRACT

Award of contract will be to the most responsive bidder (s) selected in accordance with the invitation to bid and whose bid complies with all the requirements. The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing.

ASSIGNMENT OF CONTRACT

The Contractor will not assign, transfer or sub-contract any portion of this contract without the prior written consent of the State of Nebraska.

CONTRACTOR REPRESENTATIVE

Provide the name and phone number of the representative who will be assigned to service the State of Nebraska's account:

Customer Service Representative: _____

Phone Number: _____ Fax Number: _____

ORDER

The NDCS Pharmacy will also be able to submit orders directly to the Contractor via phone or fax. Each order must reference the State Contract Number. All orders must also reference a purchase order number and the purchase order number must be referenced on the invoice.

Priority orders required for an emergency shall be handled as quickly as possible using premium transportation, **when directed by the ordering agency.** Premium transportation costs may be passed to the ordering agency at their actual cost (a copy of the waybill must be attached to the invoice). Additional markup on transportation charges will not be allowed.

An itemized invoice including the ordering agency name, and individual, purchase order number, product description, unit cost, extension and total charges will accompany all orders. All substitutions shall be noted on the invoices.

DELIVERY

Contractor will be required by the terms of the contract to deliver **Pegasys, Victrelis, Invega Sustenna, Atripla, Truvada, Isentress** within two (2) working days after receipt of order. Failure to deliver within the time frame specified may result in fifty dollar (\$50.00) per day penalty charge. This charge will be deducted from your invoice. If delays in delivery are anticipated, the Contractor shall notify the ordering agency of the expected delivery date. The order may be cancelled if delivery time is unsatisfactory and the State may then procure from other sources and the contractor may be held responsible for any excess cost.

RECEIPT OF GOODS

Delivery personnel will be required to deliver all products to the NDCS Pharmacy. Contractor's delivery personnel must wait for the order to be received, invoice(s)/packing slip(s) verified and signed with discrepancies (shortages, longs, damage, etc) documented on the delivery invoice.

At the time of delivery, a designated State of Nebraska employee will sign the "invoice/packing slip." This signature will only indicate that the order has been received and that the items actually delivered agree with the delivery invoice. This signature does not indicate all items were received in good condition and/or that there is not possible hidden damage.

PACKAGING AND SHIPMENT

All items ordered shall be delivered in manufacturer containers, and must be properly labeled. All shipments will utilize the best commercial practice to insure safe arrival at the designated NDCS Pharmacy.

RETURN OF ITEMS

In the event items need to be returned to the Contractor due to damage, miss-pick, agency ordering error, etc., a credit memo will be given to the State of Nebraska. The credit memo will be applied to the referenced original billing invoice stated on the credit memo. The State of Nebraska shall not be assessed restocking charges or any other form of return charges.

PAYMENT TERMS

Payments will then be made in accordance with the State Prompt Payment Act 81-2401 through 2408. Payment shall be within 45 days of receipt of service or invoice, whichever is received later.